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SENATE BILL 128

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Cynthia Nava

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

AN ACT

RELATING TO EDUCATION; CHANGING HOW INSTRUCTIONAL MATERIAL ALLOCATIONS ARE CALCULATED, DISTRIBUTED AND EXPENDED; PROVIDING FOR FEES; CREATING A FUND; MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 22-15-1 NMSA 1978 (being Laws 1967, Chapter 16, Section 205, as amended) is amended to read:

"22-15-1. SHORT TITLE. -- Sections ~~[77-13-1 through 77-13-14 NMSA 1953]~~ 22-15-1 through 22-15-14 NMSA 1978 may be cited as the "Instructional Material Law". "

Section 2. Section 22-15-2 NMSA 1978 (being Laws 1967, Chapter 16, Section 206, as amended) is amended to read:

"22-15-2. DEFINITIONS. -- As used in the Instructional Material Law:

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1 A. "division" or "bureau" means the instructional
2 material bureau of the department [~~of education~~];

3 B. "director" or "chief" means the chief of the
4 bureau;

5 C. "instructional material" means school textbooks
6 and other educational media [~~including on-line resources,~~
7 ~~distance learning media and productivity software~~] that are
8 used as the basis for instruction, including combinations of
9 textbooks, learning kits, supplementary material and electronic
10 media;

11 D. "multiple list" means a written list of those
12 instructional materials approved by the [~~state board~~]
13 department;

14 E. "membership" means the total enrollment of
15 qualified students on the fortieth day of the school year
16 entitled to the free use of instructional material pursuant to
17 the Instructional Material Law; and

18 F. "additional pupil" means a pupil in a school
19 district's, state institution's or private school's current
20 year's certified forty-day membership above the number
21 certified in the school district's, state institution's or
22 private school's prior year's forty-day membership. "

23 Section 3. Section 22-15-4 NMSA 1978 (being Laws 1967,
24 Chapter 16, Section 208, as amended) is amended to read:

25 "22-15-4. BUREAU--DUTIES.--Subject to the policies and

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1 regulations of the ~~[state board]~~ department, the bureau shall:

2 A. administer the provisions of the Instructional
3 Material Law;

4 B. enforce ~~[regulations]~~ rules for the handling,
5 safekeeping and distribution of instructional material and
6 instructional material funds and for inventory and accounting
7 procedures to be followed by school districts, state
8 institutions, private schools and adult basic education centers
9 pursuant to the Instructional Material Law;

10 C. withdraw or withhold the privilege of
11 participating in the free use of instructional material in case
12 of any violation of or noncompliance with the provisions of the
13 Instructional Material Law or any ~~[regulations]~~ rules adopted
14 pursuant ~~[thereto; and]~~ to that law;

15 D. enforce ~~[regulations]~~ rules relating to the use
16 and operation of instructional material depositories in the
17 instructional material distribution process; and

18 E. enforce rules that require local school boards
19 to implement a process that ensures that parents and other
20 community members are involved in the instructional material
21 review process. "

22 Section 4. Section 22-15-8 NMSA 1978 (being Laws 1967,
23 Chapter 16, Section 212, as amended) is amended to read:

24 "22-15-8. MULTIPLE LIST--SELECTION--REVIEW PROCESS. --

25 A. The ~~[state board]~~ department shall adopt a

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1 multiple list to be made available to students pursuant to the
2 Instructional Material Law. At least ten percent of
3 instructional material on the multiple list concerning language
4 arts and social studies shall contain material that is relevant
5 to the cultures, languages, history and experiences of multi-
6 ethnic students. The ~~[state board]~~ department shall ensure
7 that parents and other community members are involved in the
8 adoption process at the state level.

9 B. Pursuant to the provisions of the Instructional
10 Material Law, each school district, state institution, private
11 school as agent or adult basic education center may select
12 instructional material for the use of its students from the
13 multiple list adopted by the ~~[state board]~~ department. Local
14 school boards shall give written notice to parents and other
15 community members and shall invite parental involvement in the
16 adoption process at the district level. Local school
17 boards shall also give public notice, which notice may
18 include publication in a newspaper of general circulation in
19 the school district.

20 C. The department shall establish by rule an
21 instructional material review process for the adoption of
22 instructional material on the multiple list. The process shall
23 include:

24 (1) a summer review institute at which basal
25 materials in the content area under adoption will be

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1 facilitated by content and performance experts in the content
2 area and reviewed by reviewers;

3 (2) that level two and level three-A teachers
4 are reviewers of record; provided that level one teachers,
5 college students completing teacher preparation programs,
6 parents and community leaders will be recruited and partnered
7 with the reviewers of record;

8 (3) that reviewed materials shall be scored
9 and ranked primarily against how well they align with state
10 academic content and performance standards, but research-based
11 effectiveness may also be considered; and

12 (4) the adoption of supplementary materials
13 that are not reviewed.

14 D. Participants in the summer review institute
15 shall receive per diem and mileage as provided in the Per Diem
16 and Mileage Act.

17 E. The department shall charge a processing fee to
18 vendors of instructional materials not to exceed the retail
19 value of the instructional material submitted for adoption."

20 Section 5. A new section of the Instructional Material
21 Law, Section 22-15-8.1 NMSA 1978, is enacted to read:

22 "22-15-8.1. [NEW MATERIAL] INSTRUCTIONAL MATERIAL
23 ADOPTION FUND.--The "instructional material adoption fund" is
24 created in the state treasury. The fund consists of fees
25 charged to publishers to review their instructional materials,

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1 income from investment of the fund, gifts, grants and
2 donations. Money in the fund shall not revert to any other
3 fund at the end of a fiscal year. The fund shall be
4 administered by the department and money in the fund is
5 appropriated to the department to pay per diem and mileage for
6 summer review institute participants and other expenses
7 associated with adoption of instructional material for the
8 multiple list."

9 Section 6. Section 22-15-9 NMSA 1978 (being Laws 1967,
10 Chapter 16, Section 213, as amended) is amended to read:

11 "22-15-9. DISTRIBUTION OF FUNDS FOR INSTRUCTIONAL
12 MATERIAL. --

13 A. On or before [~~July~~] April 1 of each year, the
14 department [~~of education~~] shall allocate to each school
15 district, state institution or private school not less than
16 ninety percent of its estimated entitlement as determined from
17 the estimated forty-day membership for the next school year. A
18 school district's, state institution's or private school's
19 entitlement is that portion of the total amount of the annual
20 appropriation less a deduction for a reasonable reserve for
21 emergency expenses that its forty-day membership bears to the
22 forty-day membership of the entire state. For the purpose of
23 this allocation, additional pupils shall be counted as six
24 pupils. The allocation for adult basic education shall be
25 based on a full-time equivalency obtained by multiplying the

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1 total previous year's enrollment by .25.

2 B. On or before January 15 of each year, the
3 department [~~of education~~] shall recompute each entitlement
4 using the forty-day membership for that year, except for adult
5 basic education, and shall allocate the balance of the annual
6 appropriation adjusting for any over- or under-estimation made
7 in the first allocation.

8 C. An amount not to exceed [~~thirty~~] fifty percent
9 of the allocations attributed to each [~~local~~] school district,
10 state institution or adult basic education center may be used
11 for instructional material not included on the multiple list
12 provided for in Section 22-15-8 NMSA 1978. The local
13 superintendent may apply to the department for a waiver of the
14 use of funds allocated for the purchase of instructional
15 material either included or not included on the multiple list.
16 If the waiver is granted, the school district shall not be
17 required to submit a budget adjustment request to the
18 department. Adult basic education centers may expend up to one
19 hundred percent of their instructional material funds for items
20 that are not on the multiple list.

21 D. The department [~~of education~~] shall establish
22 procedures for the distribution of funds directly to [~~local~~]
23 school districts, state institutions and adult basic education
24 centers. The department [~~of education~~] shall [~~distribute funds~~
25 ~~to private schools on a reimbursement basis~~] provide payment to

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1 a publisher or depository on behalf of a private school for
2 instructional material included on the multiple list provided
3 for in Section 22-15-8 NMSA 1978.

4 E. A school district, state institution, private
5 school or adult basic education center that has unencumbered
6 funds remaining for the purchase of instructional material at
7 the end of the fiscal year shall retain twenty-five percent of
8 those funds for expenditure in subsequent years. [~~Any balance~~
9 ~~remaining in an instructional material account of a private~~
10 ~~school at the end of the fiscal year shall remain available for~~
11 ~~reimbursement by the department of education for instructional~~
12 ~~material purchases in subsequent years.] The department shall
13 use the remaining seventy-five percent as a credit in
14 determining the allocation for instructional material for the
15 following year."~~

16 Section 7. Section 22-15-12 NMSA 1978 (being Laws 1967,
17 Chapter 16, Section 216, as amended) is amended to read:

18 "22-15-12. ANNUAL REPORT.--Annually, at a time specified
19 by the department [~~of education~~], each local school board of a
20 school district and each governing authority of a state
21 institution, private school or adult basic education center
22 acquiring instructional material pursuant to the Instructional
23 Material Law shall file a report with the department [~~of~~
24 ~~education~~] that includes an itemized list of instructional
25 material purchased by the eligible entity, by vendor; the total

1 cost of the instructional material; the average per-student
2 cost; and the year-end cash balance. "

3 Section 8. EMERGENCY.--It is necessary for the public
4 peace, health and safety that this act take effect immediately.

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